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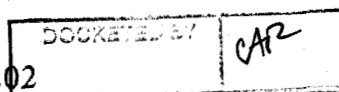
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October 31, 2002
Arizona Corporation Commission**DOCKETED****AZ CORP COMMISSION
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E-00000A-02-0051
 E-01345A-01-0822
 E-00000A-01-0630
 E-01933A-02-0069

Re: Docket No. E-00000A-02-0051 et al (Track B)
 APS's Responses to First Set of Data Requests from Panda Gila River, L.P.

Dear Mr. Guldner,

As we discussed yesterday by phone, we have reviewed your objections to Panda Gila River's first set of Data Requests related to the Track B proceedings. We believe your objections are unsupportable and appear to be designed to thwart any effort to challenge APS's unmet needs assessment and the advisability of APS's economy purchase scheme.

First, APS's objections to the Instructions and Definitions are without merit. You assert that the Instructions and Definitions are overly broad, unduly burdensome and vague, yet do not specifically identify a single instruction or portion of an instruction as being burdensome, overly broad or vague. More importantly, while you state that you will "provide responses to Data Requests in the manner customarily used at the Arizona Corporation Commission" you offer no explanation as to how the Instructions or Definitions exceed the Arizona Rules of Civil Procedure or Commission Rules of Practice. For example, the Instructions call for a privilege log and an explanation for your claim of privilege for any documents withheld under a claim of privilege. Your objections merely indicate that you will not produce such materials. Likewise, your specific objections to individual Data Requests provides no insight into the basis for your privilege objections.

Your individual objections have no more merit. You object to Data Request 1-1 "to the extent that the request to provide 'any and all' documents is overly broad and unduly burdensome." You mis-state the request. The Data Request seeks "any and all documents *relied upon* by APS" which is clearly an appropriate request and not unduly burdensome or overly broad. Please explain why it is that APS believes a request for documents it *relied upon* is overly broad. Your objection to Data Request 1-8(a) is misplaced for identical reason.

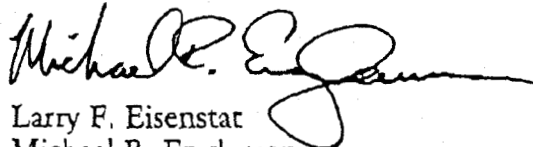
You object to Data Requests 1-2, 1-4(h), 1-6(a)(vi) and (xi), 1-7(b)-(f), 1-13(d), 1-14(d), 1-18 and 1-21(c) on the basis that the question "seeks confidential, trade secret, and competitively-sensitive information from APS, and PGR's acquisition of such information would adversely impact the competitive bidding process." Like you have done in the past, you offer no explanation as the basis for your claim that the requested information is a "trade secret" or "competitively-sensitive." Likewise, you offer absolutely no explanation as to how the requested information would "adversely impact the competitive bidding

process." The questions presented clearly constitute relevant information and your objections are simply misplaced. This is further evidenced by the fact that PGR has, on at least two occasions, entered into a Protective Agreement with APS that would prevent the requested information from reaching those employees who would be responsible for bidding the PGR facility in any competitive situation. As we discussed, PGR is willing to enter into a similar Protective Agreement that would prohibit the disclosure of the information sought to any person responsible for development of the bids of the PGR units.

Finally, your objection to Data Requests 1-26 through 1-34 cannot be sustained. The inter-relationship between APS and PWCC/PWEC with respect to gas supply is clearly relevant to Track B issues of affiliate bias, the likelihood of a fair solicitation process, whether a third party should conduct the needs assessment and a variety of other issues related to the Track B process. APS's assertion that its position on how the gas supply originally arranged by APS may be used by Affiliate owned generation is not relevant to Track B is clearly outside the bounds of an even arguably valid objection. In addition, the fact that the Data Requests may touch on subjects that are being litigated at FERC, does not lessen their relevance to this proceeding. The requests seek information that to allow PGR and the Commission to determine how the various gas supply issues being decided by FERC, no matter how they are decided, will affect the Track B solicitation.

Based on the foregoing, please withdraw your objections and produce the requested information. If it is your intent to maintain your objections, please call me as soon as possible so that we may arrange a conference call with the Administrative Law Judge hearing this matter.

Sincerely,



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